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EXAMINER
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CHENCINSKI, SIEGFRIED E

ART UNIT	PAPER NUMBER
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3692

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<p align="center"><b>Office Action Summary</b></p>	<p><b>Application No.</b></p> <p>09/777,492</p>	<p><b>Applicant(s)</b></p> <p>BOVE ET AL.</p>	
	<p><b>Examiner</b></p> <p>Siegfried E. Chencinski</p>	<p><b>Art Unit</b></p> <p>3692</p>	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 February 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

1. **Claim 21 is rejected under 35 U.S.C. 101** because the invention is not directed at statutory subject matter. Patentable subject matter must be directed at one of the following categories: process, machine, manufacture or composition of matter. Applicant's invention in claim 21 is software, which does not fit into one of these four statutory categories for patentability (MPEP 2107).

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. **Claims 1 and 9 are rejected under 35 U.S.C. 112, first paragraph**, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The claimed anonymity does not exist in Applicant's disclosure even though the language of anonymity is used (Please see item 4(b) below for a more detailed explanation).

The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

**3. Claims 1 and 9 are rejected under 35 U.S.C. 112, second paragraph**, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01. The omitted step is: the essential step between step (b) "transmitting said prospect information to a business expert ..." and step (c) "transmitting said proposal to a device ...". The essential missing step is the step of generating a proposal to be transmitted OR the declining by the business expert of doing so, and the termination of the steps at that point. As currently amended, claim 1 is non-functional because of the missing step.

**4. Claims 1, 9 and 16 are rejected under 35 U.S.C. 112, second paragraph** for lack of an antecedent basis for two claim elements.

**(a)** The claim recites the limitation "transmitting said proposal ..." in element (c).

There is insufficient antecedent basis for this limitation in the claim because there is no prior step which creates "said proposal". Step (b) does not create said proposal, it only establishes the opportunity for a proposal to be created.

**(b)** There is no antecedent basis for the claimed "anonymous leads from anonymously submitted database search criteria" in the preamble and for the "anonymously submitted database search criteria" which are a part of claim limitation (a) (ii). There is no anonymity because the manner in which Applicant describes the operation of the invention does not involve such anonymity. Applicant makes use of the electronic and software identifier features of the internet and the generic aspects of electronic mail. All transmissions and connections involve identifiers.

This is why web sites can count the number of hits they receive. Those hits are electronic contacts. They don't happen without an identifier because the contact is incapable of occurring without traveling with its identifier information. Applicant's specification discloses Applicant's awareness of this and makes use of these identifications in his invention. These identifiers are also claimed in claim 1. However, mixing the use of these identifiers with anonymity of the prospect in the context of Applicant's disclosure is a contradiction. Further, the last step in claim 1 makes use of

these identifiers in the return transmission to the device of the so-called anonymous prospect. This is a contradiction, since that very step discloses that the prospect has a known address, thus giving the prospect an identity. This is Applicant's inventive concept in the disclosure. In concert with Applicant's disclosure, claim 1 fails to create steps which would clearly create anonymity, since the last step as currently amended permits the business expert or the middle man to transmit the proposal to the prospect, since the identity of the entity making the transmission is absent. However, creating such a truly anonymous set of steps would not have antecedent basis for such a claim, thus creating a new matter condition. It would be a different invention and disclosure if Applicant's invention actually contained a means for separating the prospect's identity from the prospect's query and the related search criteria out of the method and system disclosed in the disclosure. Applicant's disclosure goes further in other embodiments by planting cookies, which moves the invention further from the anonymity of the consumer prospect from the business expert. Anonymity through this electronic mail process would require all communications to involve a two step process by always going through a scrubbing step by the middle man service provider who strips out all identity information about the so-called "anonymous" prospect inquirer and retransmits the information using strictly his own identity. The examiner has not found such embodiments in Applicant's disclosure. Applicant's specification in section 15 claims the benefits of business experts' ability "to contact consumers with proposals that are specific to the particular consumer's needs". However, section 14 fails to describe how the consumer can be electronically anonymous from the provider of the lead generation system. Fig's 1 and 2A contradict the assertion of consumer anonymity through display of the electronic network and through block 202 of Fig. 2A which includes the label "ID CUSTOMER". Further, the customer could not be responded to if he were truly anonymous.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**5. Claims 1, 3, 5-9, 10, 12-16 and 18-20 are rejected** under 35 U.S.C. 103(a) as being unpatentable over Dahod et al. (US Patent 6,574,608 B1, hereafter Dahood) in view of Wilkins et al. (US Patent 6,868,389 B1, hereafter Wilkins).

**Re. Claims 1, 9 & 16**, Dahod discloses a computer-implemented method, system and a computer readable medium for generating anonymous leads from anonymously submitted database search criteria (BUYER ANONYMITY: Buyers are able to control whether and how personal information on the buyer is revealed to a given seller - Col. 2, ll. 27-29, 50-52, 55-56; Col. 3, ll. 4-6; Claims 34 & 63 – Col. 9, l. 18; Col. 11, l. 4), comprising:

- maintaining a prospect database (col. 2, 32-40; col. 5, ll. 18-20) identifying corresponding prospect information comprising:
  - (i) prospect-identifying information, and
  - (ii) anonymously submitted search criteria
  - (iii) search information corresponding to said search criteria.(col. 4, ll. 24-28;)
- transmitting said prospect information to a business expert in a prospect presentation, wherein the prospect presentation is designed to enable generation of a proposal, and wherein the prospect information does not include the device-identifying information from a prospect (Col. 2, ll. 22-40. Providing information desired by a seller or accessed by a seller from a web site involves an electronic transmission of the information); and
- transmitting proposals to a device associated with the prospect for which the proposal is generated (Col. 2, ll. 38-42).

Dahod does not explicitly disclose a database which stores device identifying information, these are obviously residing in the middle man facilitator's server data base. An ordinary practitioner of the art at the time of Applicant's invention would have

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seen it as obvious that Dahod's teaching suggests retention by the middle man server of the device identifying information of both buyers and sellers since that information is presented to the server through the network as part of the connection. The middle man obviously can, and would have to collect that information in order to be able to communicate with either type of device, such as communicating prospect information to a business expert. The fact that Dahod suggests or even requires registration for buyers would have been an incidental piece of information to the ordinary practitioner of the art because of what he would have known about electronic networks such as the internet. The electronic device identifying information would in any case be available for equipping a seller to communicate to an anonymous buyer prospect. The facilitating middle man would have high motivation to retain this electronic information automatically for all buyers and sellers who contact his system. This has been done routinely over the internet for many years, with many web site operators automatically saving such information and planting cookies in the devices of those who access their sites. For example, Wilkins discloses the use of cookies for these purposes (Col. 2, ll. 26-43). So neither buyers nor sellers would or could obviously be truly unknown to the middle man facilitator since the facilitator's system had, could have or should have saved that automatically presented information in the respective database files of the participating parties. That information would still maintain the anonymity of the humans involved subject to their voluntarily disclosing that personal information, but all that is needed for operating the method and system is the device information. Therefore, it would have been obvious to the ordinary practitioner of the art at the time of Applicant's invention to have combined the disclosures of Dahod with those of Wilkins to design a method, system and a computer readable medium for generating anonymous leads from anonymously submitted database search criteria. The motivation for combining Dahod's information with the information already known by the ordinary practitioner is to connect prospective buyers and sellers with each other more easily, efficiently and inexpensively (Dahod, Col. 1, ll. 59-63).

**Re. Claim 3**, Dahod discloses a method wherein the prospect database identifies prospect information for a plurality of prospects, all of which are active (Dahod discloses

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making a plurality of qualified buyer prospects available to sellers because a qualified buyer is a prospect in the world of selling since qualifying is a critical step in the selling process. One parameter of qualifying a sales prospect is that the prospect demonstrates an active desire to buy, which is not required to be a guarantee to ultimately buy. Col. 2, ll. 49-51).

**Re. Claim 5**, Dahod discloses a computer-implemented method wherein the prospect has no explicit gateway available (The non-gateway option is assumable through the "if" option; Col's 1-12).

**Re. Claims 6 & 19**, neither Dahod nor Wilkins explicitly disclose a computer-implemented method and computer readable medium wherein the transmitting proposal step comprises:

- (a) receiving a request for a formatted set of data, wherein the request includes a device identifier;
- (b) checking a status indicator to determine whether a proposal should be provided;
- (c) adding a proposal notification to the requested formatted set of data, if the checking step results in a determination that a proposal should be provided; and
- (d) transmitting the formatted set of data.

Please see the rejection rationale of claim 1. The examiner gives Official Notice that this illustrates that these steps were well known in the art of programming computers to achieve communications compatibility between parties so that the receiving party is able to parse a communication from another party. The proposal notification is optional, therefore is not required. Therefore, an ordinary practitioner of the art at the time of Applicant's invention would have been able to combine the art of Dahod and Wilkins with Official Notice of well known programming techniques, motivated by the purpose of easily, efficiently and inexpensively connecting prospective buyers of goods and services with qualified sellers (Dahod, Col. 1, ll. 60-63).

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**Re. Claim 7**, Dahod discloses a method wherein the proposal notification provides a link to a proposal-viewer, which enables anonymous communication between the device user and the business expert (Fig. 11; Col. 3, ll. 54-55).

**Re. Claims 8 & 20**, Dahod discloses a method and computer readable medium wherein the status indicator is included in the request, and wherein the formatted set of data comprises a web page (Col. 4, ll. 40-46), the prospect presentation comprises one or more web pages (Fig. 11), the proposal-viewer comprises one or more web pages (Fig's 11&12),

Neither Dahod nor Wilkins explicitly disclose that the device identifier comprises a cookie, the status indicator comprises a cookie and the prospect comprises an XML data. However, the examiner gives Official Notice that a cookie used as a device identifier and as a status indicator, and that XML data sets were well know in the art at the time of Applicant's invention. Accordingly, it would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have added the well known Official Notice devices of cookies and XML data sets to the art of Dahod and Wilkins, motivated by the purpose of easily, efficiently and inexpensively connecting prospective buyers of goods and services with qualified sellers (Dahod, Col. 1, ll. 60-63).

**Re. Claim 10**, Dahod discloses a computer system comprising a business database (Fig. 7).

**Re. Claims 12 & 18**, neither Dahod nor Wilkins explicitly disclose a computer system and computer readable medium wherein the server engine is configured to not provide anonymous leads derived from particular prospects to particular business experts based upon gateway information for the particular prospects and gateway affiliation information for the particular business experts. However, please see the rejection logic presented for claims 1, 9 and 16 above. The ordinary practitioner at the time of Applicant's invention would have known that gateways are devices used to connect networks using different communications protocols so that information can be passed from one to another. As such, gateway information for the prospects and the business experts who contact the facilitator's web site is automatically presented to the facilitator for use in accomplishing his purposes. It was thus unnecessary for Dahod to explicitly disclose

this information. It would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have combined the teaching of Dahod and Wilkins and the practitioner's own information in a system which maintains the anonymity of the user-prospect until the user authorizes the release of various aspects of his information as part of an anonymous system for easily, efficiently and inexpensively connecting prospective buyers of goods and services with qualified sellers, motivated by the desire to easily, efficiently and inexpensively connecting prospective buyers of goods and services with qualified sellers (Dahod, Col. 1, ll. 60-63).

**Re. Claim 13**, neither Dahod nor Wilkins explicitly disclose a computer system wherein the server engine is configured to furnish the proposals by selective use of session identifiers and device identifiers. However, the examiner takes Official Notice that the use of session and device identifiers was well known in the art at the time of Applicant's invention. Consequently, it would have been obvious for an ordinary practitioner of the art at the time of Applicant's invention to have combined the disclosures of Dahod and Wilkins with the selective use of session and device identifiers in furnishing proposals to user prospects as part of an anonymous system for easily, efficiently and inexpensively connecting prospective buyers of goods and services with qualified sellers, motivated by the desire to easily, efficiently and inexpensively connecting prospective buyers of goods and services with qualified sellers (Dahod, Col. 1, ll. 60-63).

**Re. Claim 14**, Dahod discloses a computer system wherein the server engine is further configured to enable anonymous communication between proposal generators and proposal receivers (Col. 2, ll. 27-29, 50-52, 55-56; Claims 34 & 63 – Col. 9, l. 18; Col. 11, l. 4).

**Re. Claim 15**, Dahod discloses a computer system wherein the business database contains data regarding real estate (Fig. 7), and a server engine which comprises a web server (Col. 4, ll. 6-46). Neither Dahod nor Wilkins explicitly disclose the session identifiers are session cookies, and the device identifiers are permanent cookies. However, the examiner takes Official Notice that the use of cookies as session identifiers and session cookies, and permanent cookies as device identifiers were well known in the art at the time of Applicant's invention, as disclosed by Wilkins.

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Accordingly it would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have Official Notice regarding the well known uses of cookies to the art of Dahod and Wilkins, motivated by the purpose of easily, efficiently and inexpensively connecting prospective buyers of goods and services with qualified sellers (Dahod, Col. 1, ll. 60-63).

**6. Claims 2, 11 and 17 are rejected** under 35 U.S.C. 103(a) as being unpatentable over Dahod and Wilkins as applied to claims 1, 9 and 16 above, and further in view of Liu et al. (US Patent 6,574,608, hereafter Liu).

**Re. Claims 2, 11 & 17**, Dahod discloses a method, system and computer readable medium of search information which is disclosed to the seller on a schedule chosen by the buyer (Col. 2, ll. 53-59). Neither Dahod nor Wilkins explicitly disclose the disclosing to a seller information which also corresponds to post-search browsing activity data. However, Liu discloses the gathering a series of online browsing data from a user over time to identify the on-going interests and potential changes and expansion in interests as demonstrated by browsing activity (Col. 1, l. 58 – Col. 2, l. 4; Col. 2, ll. 14-33; col. 8, l. 56 - Col. 9, l. 20). It would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have combined the art of Dahod and Wilkins with that of Liu to enable an anonymous online user prospect to authorize the release of post-search browsing activity by the middle man entity to the seller business expert in order to capture valuable information regarding the changes in a user's interests over time (Liu, Col. 2, ll. 8-10).

**7. Claim 4 is rejected** under 35 U.S.C. 103(a) as being unpatentable over Dahod and Wilkins as applied to claim 1 above, and further in view of Walker et al. (US Patent 5,794,207, hereafter Walker207).

**Re. Claim 4**, Dahod discloses a method comprising transmitting a notification to a business expert of a new prospect (Col. 2, ll. 22-25, 37-41).

Neither Dahod nor Wilkins explicitly disclose maintaining a tracking status of a proposal.

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However, Walker discloses a method of tracking the status of buyer proposals in an anonymous system. It would have been obvious for an ordinary practitioner of the art at the time of Applicant's invention to have combined the art of Davod and Wilkins with that of Walker207 for the purpose of tracking the status of a proposal between a seller expert and an anonymous prospect in order to utilize the services the services of a trusted third party (Walker207, Col. 7, ll. 13-15).

**8. Claims 21-23 are rejected** under 35 U.S.C. 103(a) as being unpatentable over Dahod in view of Walker (US Patent 2002/0169626 A1, hereafter Walker626).

**Re. Claim 21**, Dahod discloses a computer-implemented method for anonymously connecting sales agents with consumers of housing, comprising:

- (a) providing a software application designed to communicate with a database containing information regarding housing, wherein the software application is accessible via a computer network and enables searching of the database, whereby search criteria is stored in association with search-requestor information (Fig. 7); and
- (b) wherein the software application generates prospects from the search criteria for viewing, and the software application enables generation of search-requestor-directed proposals based upon the prospects without revealing contact information for the search-requestor (Col. 2, ll. 27-29, 50-52, 55-56; Claims 34 & 63 – Col. 9, l. 18; Col. 11, l. 4).

Dahod does not explicitly disclose not requiring user registration but does disclose embodiments which do require registration. However, Walker626 discloses the connecting of consumers with merchants and sales agents of various kinds without requiring the consumer to register (Fig. 1-15; Page 1-15. Registration of consumers is absent in Walker. Walker only requires sellers, agents and reference providers to register.). Further, as demonstrated in the rejection of claims 1, 9 and 16, the teaching or suggestion by Dahod of seller prospect registration is optional and moot, as described in the rejection of claims 1, 9 and 16, since the facilitating server automatically is presented with the electronic device identity information of all devices which contact the facilitating server so that explicit registration is really optional and

unnecessary for accomplishing Applicant's invention. Accordingly, it would have been obvious for an ordinary practitioner of the art at the time of Applicant's invention to have combined the art of Davod with that of Walker626 for the purpose of anonymously connecting sales agents with consumers of housing in order to provide a prospective customer with a good sales agent (Walker626, Page 1, [0003], ll. 1-2).

**Re. Claim 22**, Dahod discloses a computer-implemented method wherein the software application further enables anonymous communication between a proposal-creator and a proposal-receiver (Col. 2, ll. 49-51).

**Re. Claim 23**, Dahod discloses a computer-implemented method wherein the information regarding housing includes information regarding real estate for sale, information regarding common interest developments such as condominiums and coops, information regarding apartments for rent and a category for miscellaneous real estate available. Dahod does not explicitly disclose the provision of information regarding factory built homes. However, the examiner takes Official Notice that the marketing of factory built homes is well known. It would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have combined the disclosures of Dahod with Official Notice regarding the well known information that factory built homes for sale are included in real estate housing listings for sale since factory built homes comprise a small subsegment of homes for sale as part of an anonymous system, motivated by the desire for easily, efficiently and inexpensively connecting prospective buyers of goods and services with qualified sellers (Dahod, Col. 1, ll. 60-63).

**9. Claims 24 and 25 are rejected** under 35 U.S.C. 103(a) as being unpatentable over Dahod in view of Walker626 as applied to claim 21, and further in view of Flight et al. (US Patent 6,662,199 B1, hereafter Flight).

**Re. Claims 24 & 25**, neither Dahod nor Walker626 explicitly disclose

- **Re. Claim 24**, a computer-implemented method wherein the software application comprises:
  - (a) a presentation layer;
  - (b) a middle layer, having business rule implementation objects,

communications objects and database messaging objects; and

(c) a database.

- **Re. Claim 25**, Dahod discloses computer-implemented method wherein the database messaging objects include objects for translating XML data into a database-specific format.

However Flight discloses

- **Re. Claim 24**, a computer-implemented method wherein the software application comprises:
  - (a) a presentation layer;
  - (b) a middle layer, having business rule implementation objects, communications objects and database messaging objects; and
  - (c) a database.

(Abstract, Fig. 5, Col. 3, l. 51 – Col. 4, l. 63)

- **Re. Claim 25**, a computer-implemented method wherein the database messaging objects include objects for translating XML data into a database-specific format (Col. 10, l. 52; Col. 15, l. 15; Col. 18, claim 24).

It would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have combined the art of Dahod and Walker 626 with the art of Flight to provide software which uses a simplified technique to more easily, efficiently and inexpensively connect qualified housing sales agents with customers (Flight, Col. 3, ll. ll. 1-48).

### ***Response to Arguments***

**10.** Applicant's arguments filed April 3, 2007 with respect to independent claims 1, 9, 16 and 21 and dependent claims 22 and 23 have been fully considered but they are not persuasive.

**ARGUMENT A:** The Examiner has failed to make a prima facie showing that independent claims 1, 9 and 16 are unpatentable under 35 U.S.C. 103(a) over Dahod et al. in view of Wilkins et al. on the basis of

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- (1) Dahod not disclosing a system featuring the anonymity of the consumer prospect,
- (2) of the inappropriateness of Wilkins and cookies as relevant prior art regarding these claims, and
- (3) because Dahod makes no suggestion to combine Dahod with Wilkins.

**RESPONSE:**

(1) Dahod discloses a system and method of anonymously submitted search criteria (Col. 2, ll. 27-29, 55-56; Col. 3, ll. 4-6). The consumer/buyer/prospect is able to truly remain anonymous until he chooses to reveal himself to the prospective seller/proposal maker. However, the anonymity disclosed by Applicant seems in fact not entirely anonymous since claims 1, 9 and 16 appear to permit the possibility of the seller or business expert proposal maker to receive the electronic identifiers of the consumer prospect (see the rejections under 35 USC 112, 2<sup>nd</sup> paragraph, above). The registration process in Dahod does not compromise the consumer prospect's anonymity. The ordinary practitioner would have seen it as obvious that an "anonymous" system could easily be established from Dahod without requiring registration, since registration plays no part in the system and method of connecting the anonymous queries of consumer inquirers with business experts who may have an interest in making proposals in response to the consumer prospects. Applicant has not presented any rationale for the registration element in Dahod being a block or teaching away from the adoption of specific components of Dahod by the ordinary practitioner. Dahod involves an automated computer driven software system. Unlike chemical and physical reactions when combinations are made, software designs can be taken in pieces according to one's need. The Federal Circuit Court's decision of March 2006 in *In re Khan* reiterates this concept as follows:

"A suggestion, teaching, or motivation to combine the relevant prior art teachings does not have to be found explicitly in the prior art, as the teaching, motivation, or suggestion may be implicit from the prior art as a whole, rather than expressly stated in the references. . . . The test for an implicit showing is what the combined teachings, knowledge of one of ordinary skill in the art, and the nature of the problem to be solved as a whole would have suggested to those of ordinary skill in the art. In re Kotzab, 217 F.3d 1365, 1370 (Fed. Cir. 2000). However, rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead,

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there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness. See Lee, 277 F.3d at 1343-46; Rouffett, 149 F.3d at 1355-59. This requirement is as much rooted in the Administrative Procedure Act, which ensures due process and non-arbitrary decisionmaking, as it is in § 103. See id. at 1344-45." *In re Kahn*, Slip Op. 04-1616, page 9 (Fed. Cir. Mar. 22, 2006).

In this instance, the examiner has met the standards reconfirmed by *In re Kahn* stated above. The examiner has pointed to a combination of explicit, implicit, suggested and obvious reasons, and to the knowledge of the ordinary practitioner in consideration of the problems to be solved, supported by articulated reasoning with some rational underpinning to support the legal conclusion of obviousness in making the rejections of independent claims 1, 9 and 16 under the 35 USC obviousness statute.

(2) Wilkins and the use of cookies are not required in presenting sufficient prior art to reject these claims and have been removed as relevant prior from the above rejection of these claims.

(3) The combination of Dahod with Wilkins is moot since Wilkins has been removed as relevant prior art from the rejection rationale of claims 1, 9 and 16.

#### **ARGUMENT B:**

The Examiner has failed to make a prima facie showing that independent claims 21-23 are obvious under 35 U.S.C. 103(a) over Dahod in view of Walker in that

(1) both Dahod and Walker teach away from a non-registration system by requiring registration in order to receive proposals (p. 4, ll. 9-14);

(2) there is no anonymous use of the system in Dahod and Walker as required in claim 21 (p. 4, ll. 17-19); and

(3) neither Dahod nor Walker, nor their combination, make any teaching, suggestion, or disclosure of storing search criteria (p. 4, ll. 24-25); or

#### **RESPONSE:**

(1) As per *In re Khan* above and the rationale presented above in responding to the similar argument regarding the rejection of claims 1, 9 and 16, the requirement of registration in Dahod does not prevent the ordinary practitioner from using various

teachings in Dahod independently from the registration step in Dahod, such that there is no teaching away in the case of Dahod.

(2) Dahod has a clear teaching of an anonymous system of transmitting queries from inquirers to business experts and vice versa, as cited in the rejection of claims 1, 9, 16 21 and in the above response to Argument A.

(3) The storing of search criteria is clearly disclosed in Dahod (col. 2, 32-40; col. 5, ll. 18-20; col. 4, ll. 24-28).

### ***Conclusion***

11. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Siegfried Chencinski whose telephone number is 571-272-6792. The Examiner can normally be reached Monday through Friday, 9am to 6pm. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, James A. Kramer, can be reached on (571) 272-6783.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any response to this action should be mailed to:

*Commissioner of Patents and Trademarks, Washington D.C. 20231*

or faxed to:

(571)273-8300 [Official communications; including After Final communications labeled "Box AF"]

(571) 273-6792 [Informal/Draft communications, labeled "PROPOSED" or "DRAFT"]

Application/Control Number: 09/777,492

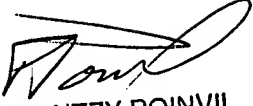
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Hand delivered responses should be brought to the address found on the above  
USPTO web site in Alexandria, VA.

SEC

June 8, 2007

  
FRANTZY POINVIL  
PRIMARY EXAMINER  
*Au 3692*